

## REMARKS

### I. THE CITED REFERENCE CANNOT SUSTAIN A §102 OR §103 REJECTION OF THE AMENDED CLAIMS

The Examiner rejected Claims 1-6 and 9-20 under 35 U.S.C. § 102(e) based on U.S. Patent 6,804,221 to Marget et al. (hereafter “the ‘221 Patent”). The Examiner rejected claims 7 and 8 under 35 U.S.C. § 103 as allegedly unpatentable over U.S. Patent 6,804,221 to Marget et al. in view of U.S. Patent 6,389,023 to Matsuzawa et al. (hereafter “the 023 Patent”).

Under 35 U.S.C. §102, the prior art must disclose each and every claim element for an invention to be anticipated by prior art. *Constant v. Advanced Minor-Devices, Inc.*, 848 F. 2d 1560 (Fed. Cir. 1988). All claim limitations of the invention must also be considered in determining patentability. *Hewlett-Packard Co. v. Bausch & Lomb, Inc.*, 909 F. 2d 1464 (Fed. Cir. 1990). Almost is not enough; the prior art must disclose all the elements. *Connell v. Sears, Roebuck & Co.*, 722 F. 2d 1542 (Fed. Cir. 1983). Accordingly, the absence of any claimed element negates anticipation under §102.

The independent Claims 1, 9, and 17 have been amended to add additional limitations for the extension field that distinguish the claims from the cited references. In the invention, the sub-type data field as claimed identifies the link-layer address protocol/standard used on the communication network or indicates the link-layer address association with a specified node on the communication network. Furthermore, the plurality of message types that can support an extension data format is claimed (e.g. a plurality of message types can contain the claimed extension). Finally, the information packets with the extension can be exchanged between a plurality of nodes and are used to update a data table for one or more specified nodes of the plurality of nodes on a plurality of nodes.

The '221 Patent does not disclose, teach, or suggest a sub-type data field containing the above claimed information. The '221 Patent discloses a method for a base station to create an extension that is only transmitted to the base station router, and the extension is used only when a mobile node enters a base station's coverage area. This differs from the invention, which is not limited to a situation where the mobile node enters a coverage area, and the information packet can be transmitted between a plurality of nodes. Furthermore, the sub-type data field in the '221 Patent extension only has two values which do not indicate or have any relation to the link-layer address protocol or node identifier as claimed in the invention. Instead, the sub-type field's two values – "n" and "u" – indicate either of two scenarios: 1) that a new mobile node has just entered the coverage area of a base station, or 2) that the advertisement message is a periodic update message refreshing entries in the binding cache. This differs from the invention where the sub-type field indicates the link-layer address standard/protocol extension used on the network or an association with a specified node. It is readily apparent that this claimed use for the sub-type data field in the invention bears no resemblance to the use of sub-type data fields in the '221 Patent. Furthermore, the length data field in the '221 Patent denotes the "number of link layer information sent." *The '221 Patent, Fig. 1*. This also differs from the claimed invention of Claim 1, where the length data field indicates the length of the sub-type data field and link-layer address data field.

The message type in the '221 Patent containing the link layer address is also limited to a mobile node advertisement message sent from a base station to its base station router, and the message is only used to refresh the binding cache entries in its base station router and is not used between any other nodes. This differs from the claimed invention where any message type supporting extensions can contain a link-layer address extension, and the

messages containing the link-layer address extension can be used to update routing address data on a plurality of nodes by a plurality of node types. *See Application, p. 20, ln 6- p. 21, ln 19.* Nodes in the invention can be any type, such as a mobile node, router, correspondence node, home agent, foreign agent, or server computer, and a plurality of message types, such as discovery, notification, control, and routing messages, can be exchanged between any node type. Because the amended claims contain these limitations not taught, suggested, or disclosed by the cited '221 Patent, a §102 rejection cannot be sustained.

Additionally, the '023 Patent does not disclose, teach, or suggest any sub-type data field. There is no motivation to combine the '023 Patent and the '221 Patent to derive a sub-type data field as claimed in the invention. The sub-type data field in the '221 Patent has no relation to the link-layer protocol/standard or association with a specified node being used on the network and thus cannot indicate any protocol/standard or a specific associated node. While Fig. 1D of the '023 Patent refers to an Ethernet protocol, that reference combined with the '221 Patent still cannot lead to a sub-type data field as claimed in the invention, because the sub-type field in the '221 Patent has no relation to protocols/standards or specific node associations. Because the amended claims contain limitations not taught, suggested, or disclosed by the cited '023 Patent, alone or in combination with the '221 Patent, a §103 rejection cannot be sustained.

## **II. CONCLUSION**

The amended claims are distinguishable from the teachings of the cited references. The Applicants believe that the amended claims traverse the Examiner's 35 U.S.C. § 102(e) and § 103(a) rejections. Independent claims 1, 9, and 17 are allowable because the '221

Patent fails to disclose, teach, or suggest the sub-type data field and other claimed limitations. Since the dependent claims add further limitations to the allowable independent claims, the Applicants believe the dependent claims are likewise allowable. Moreover, there is no motivation to combine the teachings of the '023 Patent and '221 Patent to achieve the claimed invention, and even if combined, fail to disclose the claimed invention because sub-type fields in the '221 Patent have no relation to any protocol and standard designation or node specification. Accordingly, pending claims 1-20 are believed allowable because the claimed invention is not disclosed, taught, or suggested by the cited references.

A two-month extension is required for this filing, and the Applicants request a two-month extension of time. A Petition for Extension of Time under 37 CFR 1.136(a) is enclosed along with the appropriate fee. It is believed that no additional fees are necessary for this filing. If additional fees are required for filing this response, then the appropriate fees should be deducted from D. Scott Hemingway's Deposit Account No. 501,270.

Respectfully submitted,



Malcolm W. Pipes  
Reg. No. 46,995  
Attorney for Applicant

Hemingway & Hansen, LLP  
460 Preston Common West  
8117 Preston Road  
Dallas, Texas 75225  
(214)292-8301 (voice)  
(214)739-5209 (fax)